

### REMARKS

Claims 10-12 are pending in the present Application. Claims 13-15 have been added, leaving Claims 10-15 for consideration upon entry of the present Amendment.

Support for new Claim 13 can at least be found in Figure 4E and the corresponding description in the specification. Support for Claims 14-15 can at least be found in originally filed Claims 11-12. No new matter has been introduced by these amendments.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

#### Claim Rejections Under 35 U.S.C. § 103(a)

Claims 10-12 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,412,493 to Kunii et al. in view of U.S. Patent No. 5,858,807 to Kawamura. Claims 10-12 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over JP 5-335578 to Ogawa in view of U.S. Patent No. 5,858,807 to Kawamura. Applicants respectfully traverse these rejections.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 10-12 include the following limitation: "said second gate insulating film is integrally formed over said first gate insulating film, which covers the semiconductor film, and said second gate insulating film has a smaller film thickness in a region not covered with said gate electrode than that in a region covered with said gate electrode". Kunii et al. or Ogawa, each alone or in combination with Kawamura, at least fail to teach or suggest those

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limitations.

First, it is noted that all of the above-cited references either alone or in combination are completely silent to the limitation that "said second gate insulating film is integrally formed over said first gate insulating film, which covers the semiconductor film". As such, even if these references were combined, they would fail to teach or suggest each and every element of Applicant's claimed invention.

Nevertheless, the combined references fail to teach at least one other limitation. More particularly, as correctly noted by the Examiner, Kunii et al. and Ogawa each "do not specifically disclose an insulating film with a smaller film thickness in a region not covered with a gate electrode than one covered with a gate electrode." (O.A., pages 2 and 3). Rather, the Examiner relied upon Kawamura for teaching this limitation.

In making the rejection, the Examiner stated that

Although applicant refers to the portion of said insulating layer not covered with a gate electrode as gate oxide, it is nothing but a passivation layer which does not affect the channel region and through which contact regions can be formed as shown in fig. 3 of the invention.

(O.A., page 3).

If it is assumed that, as the Examiner argues, the portion of the insulating layer not covered with a gate electrode is nothing but a passivation layer which does not affect the channel region similar to Kawamura, that is if it is assumed that there is no distinction between the passivation layer and the gate insulating film, it follows that Kawamura actually discloses the passivation film 13 is formed to cover the gate electrode and is formed covering the "side surfaces" of the gate electrode in the end portions of the gate electrode. Therefore, if the gate insulating film was a passivation layer in the region in which no gate electrode is formed, the insulating film has a thickness larger than that in the region in which a gate electrode is not formed other than the side surfaces of the gate electrode at least in a vicinity of the side surfaces of the gate electrode.

In other words, if the insulating film is, as the Examiner argues, assumed to be a passivation layer, regardless of whether or not the insulating film is integral with the gate insulating film in a region not covered with the gate electrode, Kawamura describes a structure different from that in at least Claim 10, for at least the reason that a passivation layer having a

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thickness larger than the thickness of the insulating film in a region covered with a gate electrode is formed around the side surfaces of the gate electrode, although this region is a region not covered with the gate electrode.

If, on the hand, the insulating film present in the region covered with the gate electrode and the passivation layer are "different layers if the layers are not integral", Kawamura also differs from the presently claimed invention for at least the reason that a "second gate insulating film formed over the first gate insulating film" is not present in the region not covered with the gate electrode.

Accordingly, the above-cited references, either alone or in combination, fail to teach or suggest each and every element of at least Applicant's independent Claim 10. As such, independent Claim 10 is not obvious and allowable over the above-cited references. Moreover, as dependent claims from an allowable independent claim, Claims 11-12, are, by definition, also allowable.

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In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicant's attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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